

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	Case No. 09-CV-602-GKF-FHM
ABERCROMBIE & FITCH STORES, Inc.,	)	
an Ohio Corporation, d/b/a AbercrombieKids,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION FOR ORDER COMPELLING COUNCIL ON AMERICAN-  
ISLAMIC RELATIONS – OKLAHOMA CHAPTER TO COMPLY WITH  
SUBPOENA DUCES TECUM**

Pursuant to Federal Rule of Civil Procedure 45(c)(2)(B), and following an attempted informal conference pursuant to LCvR37.1 as outlined below, Defendant Abercrombie & Fitch Stores, Inc. (“Defendant” or “Abercrombie”), by its undersigned counsel, respectfully moves this Court to enter an Order compelling Council on American-Islamic Relations – Oklahoma Chapter (“CAIR Oklahoma”) to fully and promptly respond to Defendant’s subpoena duces tecum issued to it. The grounds for this Motion are as follows:

1. On February 14, 2011, Defendant, by and through counsel, served CAIR Oklahoma with a subpoena duces tecum. The subpoena and corresponding notice were addressed to Mr. Razi Hashmi (incorrectly spelled “Rezi Hashmi”), Executive Director of CAIR Oklahoma, at CAIR Oklahoma’s headquarters in Oklahoma City, Oklahoma.
  
2. Defendant sought to subpoena from CAIR Oklahoma any and all documents in its possession involving or related to Plaintiff Samantha Elauf, Abercrombie, and the above-captioned litigation and all associated litigation or regulatory action. A copy of the subpoena and proof of service of the subpoena is attached here as Exhibit A.

3. By February 28, 2011, after all deadlines for serving written objections to the subpoena had passed, CAIR Oklahoma had not filed a motion to quash the subpoena or otherwise communicated any objections to the subpoena to Defendant.

4. By February 28, 2011, after all deadlines for serving written objections to the subpoena had passed, CAIR Oklahoma had not responded to Defendant's subpoena.

5. Pursuant to LCvR37.1, counsel for Defendant attempted to reach Mr. Hashmi or another representative of CAIR Oklahoma via telephone on Thursday, March 10, 2011, in order to discuss CAIR Oklahoma's compliance with the subpoena. Counsel for Defendant was unable to reach Mr. Hashmi or another representative of CAIR Oklahoma via telephone. Counsel for Defendant left a voicemail message on CAIR Oklahoma's voicemail system informing it that, should CAIR Oklahoma fail to respond to the subpoena issued to it by 3:00 p.m. (CST) on Friday, March 11, Defendant would file a Motion with this Court to compel its compliance with the subpoena. Counsel for Defendant left a telephone number for CAIR Oklahoma to contact should it have any questions about responding to the subpoena.

6. By 3:00 p.m. (CST) on Friday, March 11, 2011, counsel for Defendant has not received any response, written or verbal, from Mr. Hashmi or CAIR Oklahoma regarding its subpoena.

7. CAIR Oklahoma has made no effort to respond or otherwise object to the subpoena issued to it.

8. Because CAIR Oklahoma failed to properly and timely respond to Defendant's subpoena, and because the close of discovery is on March 31, 2011, this Court should enforce the subpoena as written and order CAIR Oklahoma to comply with the subpoena fully and promptly.

Respectfully submitted,

/s Mark A. Knueve

Mark A. Knueve (Ohio Bar No. 0067074)

Joseph C. Fungsang (Ohio Bar No. 0085751)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 East Gay Street

P.O. Box 1008

Columbus, Ohio 43216-1008

(614) 464-6387 (phone)

(614) 719-4808 (facsimile)

*Admitted Pro Hac Vice*

Kristen L. Brightmire

DOERNER, SAUNDERS, DANIEL &

ANDERSON, LLP

320 South Boston Avenue, Suite 500

Tulsa, Oklahoma 74103

(918) 591-5204 (phone)

(918) 925-5204 (fax)

kbrightmire@dsda.com (e-mail)

Attorney for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that this 11th day of March, 2011, a copy of the foregoing Motion for an Order Compelling Council on American-Islamic Relations – Oklahoma Chapter to Comply With Subpoena Duces Tecum was electronically filed with the Court, and served on all parties by operation of the Court’s electronic filing system. I further certify that a copy of the foregoing was also served by regular U.S. mail, postage prepaid, on this 11<sup>th</sup> day of March, 2011, to:

Razi Hashmi  
Executive Director  
CAIR Oklahoma  
1112 NW 23rd St., Suite 207  
Oklahoma City, OK 73106

/s Joseph C. Fungsang  
Joseph C. Fungsang